



PATENT APPLICATION

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application

FRIEDERIKE ZAHM

Serial No.10/037,064, filed November 7, 2001

For: METHOD OF TREATING HEPATITIS C INFECTION

**PETITION UNDER 37 CFR 1.53(e)  
IN RESPONSE TO NOTICE OF INCOMPLETE NONPROVISIONAL  
APPLICATION FILED UNDER 37 CFR 1.53(b)**

Nutley, New Jersey 07110  
April 9, 2001

Commissioner for Patents  
**Office of Petitions**  
Washington, D.C. 20231

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**OFFICE OF PETITIONS**

Sir:

The instant Petition is being filed in response to the Notice of Incomplete Non-Provisional Application dated March 6, 2002 (copy attached), which indicated that the captioned application should have included a drawing. (See MPEP §§ 5.06.02 AMD 6.01.01.) Applicant hereby petitions that the Notice is erroneous and that in fact the application does not require any drawing for the invention to be understood.

The present invention is directed to a method for the treatment of hepatitis C by the administration of drug. Further, the specification does not refer anywhere to a drawing. In these circumstances, it is entirely inappropriate to have issued a Notice of Incomplete Application. See, e.g., MPEP § 6.01.01(f): "It has been PTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for understanding of the invention under 35 U.S.C. 113 (first sentence)."

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Moreover, the parent application Serial No. 09/317,688, filed May 24, 1999 whose specification is identical to the present case did not contain a drawing and was accorded its filing date. There is clearly sufficient written description of the invention in the specification without the need for a drawing.

Accordingly, it is quite clear that the instant Notice of Incomplete Application has been erroneously issued by the OIPE. It is therefore respectfully petitioned that the captioned application be accorded its Express Mail filing date of November 7, 2001 and pass to examination on the merits.

The payment of a surcharge of \$130.00 is to be charged to Deposit Account No. 08-2525. Any underpayment or overpayment should be charged or credited to Deposit Account No. 08-2525.

In view of the self-evidently unjustified denial of filing date and erroneous issuance of the current Notice, it is respectfully requested that the fee for the present Petition be refunded to applicant.

Respectfully submitted,



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